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SENATE BILL 159

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO TORTS; LIMITING TORT LIABILITY FOR HOT AIR BALLOON
ACTIVITIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE. -- This act may be cited as the
"Hot Air Balloon Liability Act".

Section 2. LEGISLATIVE PURPOSE AND FINDINGS. -- The
legislature recognizes that a person who participates in a hot
air balloon activity may incur injury as a result of the risks
inherent in the activity. The legislature also finds that the
state and its citizens derive numerous personal and economic
benefits from hot air balloon activities. It is the purpose of
the legislature to encourage hot air balloon activities by
providing that a person participating in a hot air balloon
activity shall not recover for an injury that proximately

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1 results from the risks inherent in the activity.

2 Section 3. DEFINITIONS. --As used in the Hot Air Balloon
3 Liability Act:

4 A. "hot air balloon activity" means a hot air
5 balloon flight or performance;

6 B. "hot air balloon activity organizer" means a
7 person that organizes or sponsors a hot air balloon activity;

8 C. "hot air balloon operator" means a hot air
9 balloon pilot or a person that assists the pilot in launching,
10 flying, landing or operating the hot air balloon;

11 D. "hot air balloon park" means a hot air balloon
12 launch site, land site or show site that is open to the public
13 for the observation of hot air balloon activities;

14 E. "land site" means land that a hot air balloon
15 lands upon with the permission of a person that owns, leases,
16 rents or otherwise is in lawful possession and control of the
17 land;

18 F. "launch site" means land that a hot air balloon
19 launches from with the permission of a person that owns,
20 leases, rents or otherwise is in lawful possession and control
21 of the land;

22 G. "observer" means a person who visits a launch
23 site, land site or show site to observe a hot air balloon
24 activity with the permission of the person that owns, leases,
25 rents or otherwise is in lawful possession and control of the

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1 land; and

2 H. "show site" means land upon which a balloon
3 operator conducts a hot air balloon activity for an audience
4 with the permission of the person that owns, leases, rents or
5 otherwise is in lawful possession and control of the land.

6 Section 4. LIMITATION OF LIABILITY. --An owner, lessee,
7 renter or lawful possessor of a launch site, land site or show
8 site, a hot air balloon activity organizer or a hot air balloon
9 operator is not liable for injury, loss or damage that results
10 from the risks inherent in a hot air balloon activity unless
11 the owner, lessee, renter or lawful possessor of the launch
12 site, land site or show site, the hot air balloon activity
13 organizer or the hot air balloon operator:

14 A. provides hot air balloon equipment and knows or
15 should know that the equipment is faulty and an injury
16 proximately results from the faulty condition of the equipment;

17 B. provides a hot air balloon and fails to make a
18 reasonable effort to determine the ability of the hot air
19 balloon operator to engage safely in a hot air balloon
20 activity;

21 C. commits an act or omission that constitutes a
22 reckless disregard for the safety of a hot air balloon
23 operator, passenger or observer and an injury proximately
24 results from the act or omission; or

25 D. intentionally injures a hot air balloon

1 operator, passenger or observer.

2 Section 5. POSTING OF NOTICE. --A hot air balloon park
3 owner shall post a clearly visible sign in at least one
4 prominent location in the hot air balloon park. The sign shall
5 include a warning regarding the inherent risks of hot air
6 balloon activities and the limitations on liability of the
7 owner, lessee, renter or lawful possessor of the launch site,
8 land site or show site, the hot air balloon activity organizer
9 and the hot air balloon operator.

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